

After reviewing the record and applicable law, Magistrate Judge Baxter concludes that no reasonable jury could find that defendants acted with deliberate indifference to plaintiff's medical needs. Nor could a reasonable jury find that Dr. de Azevedo's treatment of plaintiff was based on retaliatory or discriminatory motives, as opposed to an exercise of his medical judgment. Moreover, Magistrate Judge Baxter finds that, even if there were an issue of material fact, defendants would be entitled to summary judgment based on qualified immunity, because it was objectively reasonable for them to believe that their treatment of plaintiff did not constitute deliberate indifference to his medical needs.

Plaintiff has submitted an objection (Dkt. No. 102). The issues raised in plaintiff's objection have been addressed in the Report and Recommendation, and the Court does not discuss them again here. Upon *de novo* review pursuant to 28 U.S.C. § 636(b)(1)(C), the Court accepts the Report and Recommendation in all respects.

It is therefore

ORDERED that the Report and Recommendation (Dkt. No. 99) is accepted; and it is further

ORDERED that defendants' motion for summary judgment (Dkt. No. 92) is granted and the case dismissed; and it is further

ORDERED that the Clerk serve copies of this Memorandum-Decision and Order in accordance with the Local Rules of the Northern District of New York.

IT IS SO ORDERED.

Date: September 27, 2011
Syracuse, New York


Norman A. Mordue
Chief United States District Court Judge